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Attorneys for Secured Creditor  
OneWest Bank FSB,

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SANTA ROSA DIVISION**

In re	)	Bankruptcy Case No. 09-10655-AJ
GERARD Q. DECKER, IV,	)	RS No. ND-265
Debtor.	)	Chapter 7
ONEWEST BANK FSB,	)	
Movant,	)	<b>ONEWEST BANK FSB'S MOTION FOR</b>
vs.	)	<b>RELIEF FROM AUTOMATIC STAY</b>
GERARD Q. DECKER, IV, Debtor, and	)	<u>HEARING DATE:</u>
Timothy W. Hoffman, Trustee,	)	DATE: June 11, 2009
Respondents.	)	TIME: 9:00 AM
	)	CTRM: Santa Rosa

**TO THE HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY  
COURT JUDGE, THE DEBTOR, THE DEBTOR'S COUNSEL, THE TRUSTEE AND  
OTHER INTERESTED PARTIES:**

1 PLEASE TAKE NOTICE that ONEWEST BANK FSB, (“Movant”) has filed the attached  
2 Motion for Relief from the Automatic Stay (the “Motion”) in the above-entitled and numbered  
3 Chapter 7 case.  
4

5 This Motion is based upon the Memorandum of Points and Authorities attached  
6 hereto, as well as upon the documents filed in support of the Motion.  
7

8 DATED: May 22, 2009

Respectfully Submitted,  
ROBINSON TAIT, P.S.

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10 By: /s/ Nicolas Daluiso  
11 NICOLAS DALUIISO  
12 Attorneys for Movant  
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In re ) Bankruptcy Case No. 09-10655-AJ  
GERARD Q. DECKER, IV, ) RS No. ND-265  
Debtor. ) Chapter 7

ONEWEST BANK FSB,  
Movant,

vs.

GERARD Q. DECKER, IV, Debtor, and  
Timothy W. Hoffman, Trustee,  
Respondents.

**ONEWEST BANK FSB'S MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
SUPPORT OF ITS MOTION FOR RELIEF  
FROM STAY**

HEARING DATE:  
DATE: June 11, 2009  
TIME: 9:00 AM  
CTRM: Santa Rosa

**TO THE HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY  
COURT JUDGE, THE DEBTOR, THE DEBTOR'S COUNSEL, THE TRUSTEE AND  
OTHER INTERESTED PARTIES:**

1 PLEASE TAKE NOTICE that ONEWEST BANK FSB, ("Movant") hereby files this  
2 Memorandum of Points and Authorities in support of its Motion for Relief From The Automatic  
3 Stay (the "Motion") in the above-entitled and numbered Chapter 7 case.  
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5 I.

6 INTRODUCTORY STATEMENT

7 Movant requests the Court to grant it relief from the automatic stay because the Debtor has  
8 failed to maintain monthly payments which have come due under the Note.  
9

10 II.

11 STATEMENT OF FACTS

12 1. **The Secured Debt.** On or about September 14, 2005, GERARD Q.  
13 DECKER, IV, made and delivered a Promissory Note in the original principal amount of  
14 \$1,462,500.00, secured by a Priority Deed of Trust on the Property commonly known as 2030  
15 Paradise Drive, Tiburon, CA, 94920 (the "Property"). True and correct copies of the Note, Deed of  
16 Trust, and Assignment of Deed of Trust are attached as Exhibits "1," "2," and "3," respectively.

17 2. **The Default Under The Note.** Movant's Note and Deed of Trust are  
18 contractually due for the December 1, 2007 payment. As a result of the default, Movant desires to  
19 record a Notice of Default and Election to Sell against the Property. The total delinquency under the  
20 Note is set forth in detail on Exhibit "4" to the Motion.

21 3. **The Debtor's Interest In The Property.** The Debtor is the owner of  
22 record of the Property.

23 4. **The Filing Of The Instant Petition.** On March 16, 2009, GERARD Q.  
24 DECKER, IV filed the instant Chapter 7 Petition as Case No. 09-10655.  
25  
26  
27  
28



1 Equity Line lien in the amount of \$40,000.00. See Exhibit “5.”  
2

3 **IV.**

4 **CONCLUSION.**

5 For the foregoing reasons, and based upon the evidence set forth in this Motion, this Court  
6 should grant the relief from the automatic stay to allow Movant, to enforce its rights and remedies  
7 under its Note and Deed of Trust including a waiver of the 10-day stay provided by Rule 4001(a)(3)  
8 of the Federal Rules of Bankruptcy Procedure. Movant, requests that this Order shall be binding and  
9 effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11  
10 of the United States Code. Furthermore, Movant, is specifically requesting the Court to award  
11 attorneys fees and costs incurred in connection with this matter.

12 DATED: May 22, 2009

Respectfully Submitted,

13 ROBINSON TAIT, P.S.

14  
15 By: /s/ Nicolas Daluiso

16 NICOLAS DALUIISO

17 Attorneys for Movant  
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